



BILLING CODE: 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

[A-570-924]

Polyethylene Terephthalate Film, Sheet, and Strip from the People's Republic of China: Notice of Court Decision Not in Harmony with Final Results of Administrative Review and Notice of Amended Final Results of Administrative Review Pursuant to Court Decision

AGENCY: Import Administration, International Trade Administration, Department of Commerce

SUMMARY: On August 6, 2013, the United States Court of International Trade ("CIT") sustained the Department of Commerce's (the "Department") results of redetermination, pursuant to the CIT's remand order, in Tianjin Wanhua Co., Ltd. v. United States, Slip Op. 13-100 (CIT 2013).¹

Consistent with the decision of the United States Court of Appeals for the Federal Circuit ("CAFC") in Timken Co. v. United States, 893 F.2d 337 (Fed. Cir. 1990) ("Timken"), as clarified by Diamond Sawblades Mfrs. Coalition v. United States, 626 F.3d 1374 (Fed. Cir. 2010) ("Diamond Sawblades"), the Department is notifying the public that the final judgment in this case is not in harmony with the Department's PET Film Final Results² and is amending the final results with respect to Tianjin Wanhua Co., Ltd. ("Wanhua").

DATES: Effective August 16, 2013

FOR FURTHER INFORMATION CONTACT: Jonathan Hill, Office 4, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC, 20230; telephone: (202) 482-3518.

¹ See Final Results of Redetermination Pursuant to Court Remand, Court No. 11-00070, dated July 22, 2013, available at: <http://ia.ita.doc.gov/remands> ("PET Film Final Remand").

² See Polyethylene Terephthalate Film, Sheet, and Strip From the People's Republic of China: Final Results of the First Antidumping Duty Administrative Review, 76 FR 9753 (February 22, 2011) ("PET Film Final Results").

SUPPLEMENTARY INFORMATION:

Background

On April 29, 2013, the CIT granted the Department's motion for voluntary remand in Tianjin Wanhua Co., Ltd. v. United States to reconsider the separate rate methodology as applied to Wanhua with respect to the PET Film Final Results and the results of the CIT's judgment in Fuwei Films (Shandong) Co., Ltd. v. United States in which the weighted-average dumping margins for the mandatory respondents were revised.³ Pursuant to the CIT's remand order, the Department re-examined record evidence and made changes to the separate rate applicable to Wanhua. Specifically, the Department followed its practice in calculating a separate rate where the individually investigated respondents received rates that were zero, de minimis, or based entirely on facts available,⁴ and applied the most recently determined weighted-average dumping margin that was not zero, de minimis, or based entirely on facts available. In this case, the Department pulled forward Wanhua's separate rate from the investigation.⁵

Timken Notice

In its decision in Timken, as clarified by Diamond Sawblades, the CAFC held that, pursuant to section 516A(e) of the Act, the Department must publish a notice of a court decision that is not "in harmony" with a Department determination and must suspend liquidation of entries pending a "conclusive" court decision. The CIT's August 6, 2013, judgment sustaining the PET Film Final Remand constitutes a final decision of that court that is not in harmony with the PET Film Final Results. This notice is published in fulfillment of the publication

³ See Fuwei Films (Shandong) Co., Ltd. v. United States, 895 F. Supp. 2d 1332 (Ct. Int'l Trade 2013); Polyethylene Terephthalate Film, Sheet, and Strip From the People's Republic of China: Notice of Court Decision Not in Harmony With Final Results of Administrative Review and Notice of Amended Final Results of Administrative Review Pursuant to Court Decision, 78 FR 9363 (February 8, 2013).

⁴ See Section 735(c)(5)(A) of the Tariff Act of 1930, as amended (the "Act").

⁵ See Polyethylene Terephthalate Film, Sheet, and Strip from the People's Republic of China: Final Determination of Sales at Less Than Fair Value, 73 FR 55039, 55041 (September 24, 2008).

requirements of Timken. Accordingly, the Department will continue the suspension of liquidation of the subject merchandise pending the expiration of the period of appeal or, if appealed, pending a final and conclusive court decision. The cash deposit rate will remain the company-specific rate established for the subsequent and most recently completed segment of this proceeding in which the respondent was included.

Amended Final Determination

Because there is now a final court decision with respect to the PET Film Final Results, the revised weighted-average dumping margin is as follows:

Exporter	Weighted-Average Dumping Margin (percent)
Tianjin Wanhua Co., Ltd.	3.49

This notice is issued and published in accordance with sections 516A(e)(1), 751(a)(1), and 777(i)(1) of the Act.

Paul Piquado
Assistant Secretary
for Import Administration

August 16, 2013
Date

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